

STATEMENT OF THE BAY/DELTA URBAN COALITION TO THE
STATE WATER RESOURCES CONTROL BOARD - WORKSHOP #3, ISSUE #3
June 14, 1994

The Bay/Delta urban coalition is an informal group of urban water agencies serving communities throughout northern, central, and southern California.¹

For this hearing, the State Water Resources Control Board (Water Board) has requested comments concerning the impact of upstream diversions on the Delta. Specifically the Water Board asks: "What effect do upstream water projects, other than the CVP and SWP, have on the fish and wildlife resources of the Bay/Delta Estuary?" The urban coalition offers the following observations:

The State Water Project (SWP) and the Central Valley Project (CVP) (together "Projects") have been the subject of studies to understand their impacts on the Delta and upstream environments. These studies, costing tens of millions of dollars, have not resulted in a precise quantification of the relative impacts of the Projects.

Diversions and related actions by the Projects are among the sources of human impacts on the Delta. Operations by other diverters, both large and small, have also affected the Delta system. Further, activities such as urban and agricultural development, fishing, pollution, and others have also had adverse effects.

Project and non-Project upstream storage facilities have offsetting positive impacts on the Delta and its tributaries, as well. During times of low flow, particularly during droughts, the flow releases from upstream reservoirs provide water for a multiplicity of beneficial uses in the Delta and on its tributary rivers.

To date, the studies of the impacts of the non-Project water users have focused primarily on localized impacts or on the effects of pollutant discharges on fish and wildlife. The impacts of non-Project diversions and other activities on the Delta have been described conceptually, but there has not yet been any effort to quantify the impacts. It is our understanding that the California Urban Water Agencies (CUWA) will undertake an effort to develop a quantification of those impacts.

The quantification of impacts on the Delta by all diversions will be complex and time-consuming. However, the Water Board should not wait until there is scientific quantification of each water diverter's or water user's effect on the system before it

¹ The Bay/Delta urban coalition consists of: Alameda County Water District, Central Coast Water Authority, Coachella Valley Water District, East Bay Municipal Utility District, Municipal Water District of Orange County, Metropolitan Water District of Southern California, Public Utilities Commission of the City and County of San Francisco, San Diego County Water Authority, and Santa Clara Valley Water District.

The opinions expressed here do not necessarily reflect the fully elaborated positions of individual members of CUWA. By joining in these comments, no agency has waived its right to offer its own views on this important question.

issues a decision regarding levels of protection and allocation of responsibility for the health of the Delta's ecosystem. Rather, the Water Board should adopt an allocation method that reasonably and rationally allocates responsibilities with due regard to existing scientific analysis, public policy, and legal principles.

The Water Board's decision should include an allocation that recognizes that diversions, entrainment, return flows, and all other activities that result from the use of water have some impact, at least incrementally, on the Delta and the fish and wildlife that rely on it for their habitat. The decision should also give due regard to fundamental issues such as water rights seniority, type and relative benefit of use, and other factors to determine an allocation plan that will best protect the public's interest in making the fullest beneficial use of the State's water.

In addition to the allocation of responsibility for Delta protection, the Water Board must include reasonable and practicable means for diverters to meet their responsibilities through alternative means. To this end, the urban coalition endorses and supports the development of a program of "mitigation credits" to allow responsible parties to meet their obligations either directly, as assigned by the Water Board, or "indirectly," by substituting a mitigation credit in lieu of their assigned responsibility. ²

Mitigation credits may take many forms, including the payment of money to a fund that would purchase water from willing sellers, or the foregoing of a release of water from the responsible party's system in exchange for the release of water from other source(s). As knowledge increases about the relationship of non-water activities to the protection of fish and wildlife, non-water-related alternatives (such as physical habitat restoration) should be available as mitigation credits. The concept of mitigation credits and the inclusion of non-water alternatives to promote fish and wildlife restoration is integral to any overall, comprehensive plan to provide Delta protection.

² The Water Board, or another management entity, could administer or monitor a program for mitigation credits.